



NATIONS UNIES
DROITS DE L'HOMME
HAUT-COMMISSARIAT



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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REFERENCE: NF/rc

Subject: Human Rights Council resolution 20/05 on Human Rights and Arbitrary Deprivation of Nationality

The Office of the High Commissioner for Human Rights presents its compliments to the Permanent Missions to the United Nations Office at Geneva and New York and has the honour to refer to the Human Rights Council resolution 20/5 on the Human Rights and the Arbitrary Deprivation of Nationality. The resolution is attached for ease of reference.

Paragraph 18 of the resolution requests the Secretary-General to prepare a report on the legislative and administrative measures that may lead to the deprivation of nationality of individuals or groups of individuals, paying particular attention to situations where persons affected may be left stateless, to collect in this regard information from States, United Nations agencies and other relevant stakeholders and to present the report to the Human Rights Council before its twenty-fifth session.

Accordingly, the Office of the High Commissioner for Human Rights would be most grateful to receive from Member States information regarding such legislative and administrative measures, as follows and providing the applicable legal provisions and/or jurisprudence where relevant:

1. On what grounds can nationals lose or be deprived of their nationality?
2. Can an individual only lose or be deprived of nationality if he or she would not be rendered stateless? If so, are there exceptions to this rule? How are any such legislative safeguards against statelessness implemented in practice?
3. Does the law ensure that individuals are not deprived of nationality on discriminatory grounds such as race, colour, sex, language, religion, political or other opinion, disability, national or social origin, property, birth or other status?
4. What procedures exist for acquisition of documentation proving nationality by individuals who have automatically acquired nationality at birth or, where relevant, upon State succession? What documentation and other requirements must be satisfied by individuals who apply for proof of nationality? How many applicants for such proof of nationality are rejected because they are unable to meet the requirements?
5. Do all children born on the territory of the State acquire nationality if they would otherwise be stateless? If so, does this occur automatically or upon application? If conditions apply, please list them. How many individuals have benefited from these provisions?



6. Do all children born to nationals who are abroad acquire nationality? If not, do they acquire nationality if they would otherwise be stateless? If conditions apply, please list them. How many individuals have benefited from these provisions?
 7. Does the law provide a right to a fair hearing by a court for an individual who is: (i) denied issuance of documentation proving nationality; and/or (ii) affected by loss or deprivation of nationality?
 8. If a person is found to have been arbitrarily deprived of his or her nationality, does the law make provision for an effective remedy, including restoration of the person's nationality?
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9. What are legislative and administrative measures leading to the deprivation of nationality of individuals or groups of individuals that would be considered arbitrary within your constitutional framework?

The information, and any queries, may be sent by email to Ms. Rachel Opie at the Office of the United Nations High Commissioner for Human Rights (ropie@ohchr.org), or by mail to the Office of the United Nations High Commissioner for Human Rights, United Nations Office at Geneva, CH-1211, Geneva 10, fax number: +41 22 917 90 08, no later than **15 February 2013**.

The Office of the High Commissioner for Human Rights avails itself of this opportunity to renew to your Government the assurances of its highest consideration.

14 January 2013



General Assembly

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Human Rights Council

Twentieth session

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council*

20/5.

Human rights and arbitrary deprivation of nationality

The Human Rights Council,

Guided by the purposes, principles and provisions of the Charter of the United Nations,

Guided also by article 15 of the Universal Declaration of Human Rights, according to which everyone has the right to a nationality and no one shall be arbitrarily deprived of his or her nationality,

Reaffirming Human Rights Council resolutions 7/10 of 27 March 2008, 10/13 of 26 March 2009 and 13/2 of 24 March 2010, as well as all previous resolutions adopted by the Commission on Human Rights on the issue of human rights and the arbitrary deprivation of nationality,

Reaffirming also Human Rights Council resolution 19/9 of 22 March 2012, in which the Council took into consideration the fact that persons without birth registration may be vulnerable to statelessness and associated lack of protection,

Recognizing the authority of States to establish laws governing the acquisition, renunciation or loss of nationality in accordance with international law, and noting that the issue of statelessness is already under consideration by the General Assembly within the broad issue of State succession,

Noting the provisions of international human rights instruments and international instruments on statelessness and nationality recognizing the right to acquire, change or retain nationality or prohibiting arbitrary deprivation of nationality, inter alia, article 5, paragraph (d) (iii), of the International Convention on the Elimination of All Forms of Racial Discrimination, article 24, paragraph 3, of the International Covenant on Civil and

* The resolutions and decisions adopted by the Human Rights Council will be contained in the report of the Council on its twentieth session (A/HRC/20/2), chap. I.

Political Rights, articles 7 and 8 of the Convention on the Rights of the Child, articles 1 to 3 of the Convention on the Nationality of Married Women, article 9 of the Convention on the Elimination of All Forms of Discrimination against Women, article 18 of the Convention on the Rights of Persons with Disabilities, the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons, as well as relevant regional instruments,

Noting also general recommendation No. 30 of the Committee on the Elimination of Racial Discrimination,

Recalling that persons arbitrarily deprived of nationality are protected by international human rights and refugee law, as well as by instruments on statelessness, including, with respect to State parties, the Convention relating to the Status of Stateless Persons and the Convention relating to the Status of Refugees and the Protocol thereto,

Stressing that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis,

Recalling General Assembly resolution 66/133 of 19 December 2011, in which the Assembly, inter alia, urged the Office of the United Nations High Commissioner for Refugees to continue its work with regard to identifying stateless persons, preventing and reducing statelessness and protecting stateless persons,

Mindful of the endorsement by the General Assembly, in its resolution 41/70 of 3 December 1986, of the call upon all States to promote human rights and fundamental freedoms and to refrain from denying those to individuals in their populations because of nationality, ethnicity, race, religion or language,

Recalling General Assembly resolutions on the issue of the nationality of natural persons in relation to the succession of States, in particular resolutions 55/153 of 12 December 2000, 59/34 of 2 December 2004, 63/118 of 11 December 2008 and 66/92 of 9 December 2011, in which the Assembly invited States to take into account the provisions of the articles on nationality of natural persons in relation to the succession of States prepared by the International Law Commission in dealing with issues of nationality of natural persons in relation to the succession of States,

Recognizing that the arbitrary deprivation of nationality disproportionately affects persons belonging to minorities, and recalling the work done by the Independent Expert on minority issues on the subject of the right to nationality,

Expressing its deep concern at the arbitrary deprivation of persons or groups of persons of their nationality, especially on discriminatory grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that arbitrarily depriving a person of his or her nationality may lead to statelessness and, in this regard, expressing concern at the various forms of discrimination against stateless persons that may violate the obligations of States under international human rights law,

Emphasizing that the human rights and fundamental freedoms of persons whose nationality may be affected by State succession must be fully respected,

1. *Reaffirms* that the right to a nationality of every human person is a fundamental human right enshrined in, inter alia, the Universal Declaration of Human Rights;

2. *Reiterates* that the arbitrary deprivation of nationality, especially on discriminatory grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, is a violation of human rights and fundamental freedoms;

3. *Also reiterates* that the prevention and reduction of statelessness are primarily the responsibility of States, in appropriate cooperation with the international community;

4. *Calls upon* all States to refrain from taking discriminatory measures and from enacting or maintaining legislation that would arbitrarily deprive persons of their nationality on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, especially if such measures and legislation render a person stateless;

5. *Urges* all States to adopt and implement nationality legislation with a view to avoiding statelessness, consistent with the principles of international law, in particular by preventing arbitrary deprivation of nationality and statelessness as a result of State succession;

6. *Notes* that the full enjoyment of all human rights and fundamental freedoms of an individual might be impeded as a result of the arbitrary deprivation of nationality, and that such individuals are placed in a situation of increased vulnerability to human rights violations;

7. *Expresses its concern* that persons arbitrarily deprived of nationality may be affected by poverty, social exclusion and limited legal capacity, which have an adverse impact on their enjoyment of relevant civil, political, economic, social and cultural rights, in particular in the areas of education, housing, employment, health and social security;

8. *Reaffirms* that every child has the right to acquire a nationality, and recognizes the special needs of children for protection against the arbitrary deprivation of nationality;

9. *Urges* all States to prevent statelessness through legislative and other measures aimed at ensuring that all children are registered immediately after birth and have the right to acquire a nationality and that individuals do not become stateless thereafter;

10. *Calls upon* States to observe minimum procedural standards in order to ensure that decisions concerning the acquisition, deprivation or change of nationality do not contain any element of arbitrariness and are subject to review, in conformity with their international human rights obligations;

11. *Encourages* States to grant their nationality to persons who had habitual residence in their territory before it was affected by the succession of States, especially if those persons would otherwise become stateless;

12. *Calls upon* States to ensure the access of persons arbitrarily deprived of their nationality to effective remedies, including, but not limited to, the restoration of nationality;

13. *Welcomes* the report of the Secretary-General submitted in accordance with Human Rights Council resolution 13/2¹ and the conclusions contained therein;

14. *Also welcomes* the intergovernmental event organized by the Office of the United Nations High Commissioner for Refugees on 7 December 2011 marking the sixtieth anniversary of the Convention on the Status of Refugees and the fiftieth anniversary of the Convention on the Reduction of Statelessness, and the pledges made by States at the said

¹ A/HRC/19/43.